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United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
CONNIE DEVERS,  
  
Defendant.

CASE NO. CR S 10-223 JAM

STIPULATION REGARDING DEFENDANT'S  
COMPETENCY; FINDINGS AND ORDER

DATE: December 9, 2014

TIME: 9:30 a.m.

COURT: Hon. John A. Mendez

**STIPULATION**

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for a hearing on December 9, 2014 at 9:30 a.m.
2. The parties agree and stipulate, and request that the Court find the following:
  - a) The parties and the Court are in possession of a competency evaluation report dated October 30, 2014, and prepared by John M. Greene, M.D. In that report, Dr. Greene sets forth a description of his examination of Ms. Devers and related records, as well as his conclusions as to her competency to stand trial. Ultimately, Dr. Greene concludes that "Ms. Devers currently has an inability to understand the nature and consequences of the proceedings against her, and to assist properly in her defense, due to the mental disease of Major Neurocognitive Disorder." (Report, P. 8).

1           b)       In diagnosing Ms. Devers, Dr. Greene opines that her disorder is “due to the  
2 treatment she has received” for her illness, which has previously been disclosed to the Court.  
3 (Report, P. 7) Dr. Greene explicitly states that her cognitive impairment is a result of the  
4 treatment she is receiving for her illness. (*Id*)

5           c)       The parties believe that Dr. Greene’s report provides the Court with a sufficient  
6 basis for finding that Ms. Devers is “presently suffering from a mental disease or defect  
7 rendering [her] mentally incompetent to the extent [she] is unable to understand the nature and  
8 consequences of the proceedings against [her] or to properly assist in [her] defense.” 18 U.S.C.  
9 § 4241(d).

10           d)       Under the terms of the statute, once a finding of incompetency is made, “the court  
11 shall commit the defendant to the custody of the Attorney General” so that the defendant may  
12 receive treatment and a determination may be made as to whether the defendant will attain the  
13 capacity to allow proceedings to go forward. 18 U.S.C. § 4241(d)(1). In this case, given the  
14 defendant’s physical condition, and the fact that her incompetency is apparently caused by the  
15 treatment she needs to treat that condition, the parties agree that commitment is inappropriate.  
16 Instead, the parties jointly request that this matter be continued for a period of roughly 4 months,  
17 to April 7, 2015 at 9:30 a.m. At this point the parties can assess and inform the court as to: a) the  
18 defendant’s current physical condition; b) the defendant’s current course of treatment; and c) the  
19 present impact of that treatment upon her competency.

20           e)       If the Court determines that the defendant is presently incompetent to stand trial,  
21 time is excluded from computation under the Speedy Trial Act from the present date through  
22 April 7, 2015, pursuant to 18 U.S.C. § 3161(h)(4) [Local Code N].

23 IT IS SO STIPULATED.

24  
25 Dated: December 8, 2014

BENJAMIN B. WAGNER  
United States Attorney

26  
27 /s/ PHILIP A. FERRARI  
PHILIP A. FERRARI  
Assistant United States Attorney  
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1 Dated: December 8, 2014

/s/ Philip A. Ferrari for  
Mark Reichel, Esq.  
Counsel for Defendant  
Connie Devers

5 **FINDINGS AND ORDER**

6 Consistent with the parties' stipulation and the evidence before the Court, it is hereby found that  
7 the defendant, Connie Devers, is "presently suffering from a mental disease or defect rendering [her]  
8 mentally incompetent to the extent [she] is unable to understand the nature and consequences of the  
9 proceedings against [her] or to properly assist in [her] defense." 18 U.S.C. § 4241(d). For the reasons  
10 stated in the parties' stipulation, the Court will not commit the defendant to the custody of the Attorney  
11 General for additional treatment and evaluation. This matter is set for a status conference on April 7,  
12 2015, where it is expected the parties will inform the Court of the defendant's present condition. The  
13 time between today's date and April 7, 2015, shall be excluded from computation under the Speedy  
14 Trial Act from the present date through April 7, 2015, pursuant to 18 U.S.C. § 3161(h)(4) [Local Code  
15 N].

16 IT IS SO FOUND AND ORDERED this 8<sup>th</sup> day of December, 2014.

19 /s/ John A. Mendez  
20 THE HONORABLE JOHN A. MENDEZ  
21 UNITED STATES DISTRICT COURT JUDGE